United Nations Convention on the Law of the Sea SPLOS/243

Meeting of States Parties

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Appointment of Auditor for financial years 2013-2016

(Presented by the Tribunal)

1. Pursuant to Regulation 12.1 of the Financial Regulations of the Tribunal:

> The Meeting of States Parties shall appoint an Auditor, which may be an internationally recognized firm of auditors, an Auditor General or an official of a State Party with an equivalent title. The Auditor shall be appointed for a period of four years and its appointment may be renewed. The Tribunal may make proposals regarding the appointment of the Auditor.

2. Accordingly, the Tribunal may consider whether it is appropriate to submit proposals to the Meeting of States Parties regarding the appointment of the Auditor for the financial periods 2013-2014 and 2015-2016. A draft document in this regard is contained in the annex to the present document.

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Annex

Appointment of auditor for financial years 2013-2016

1. Pursuant to Regulation 12.1 of the Financial Regulations of the Tribunal:

> The Meeting of States Parties shall appoint an Auditor, which may be an internationally recognized firm of auditors, an Auditor General or an official of a State Party with an equivalent title. The Auditor shall be appointed for a period of four years and its appointment may be renewed. The Tribunal may make proposals regarding the appointment of the Auditor.

2. In order to enable the Tribunal to make proposals regarding the appointment of an auditor, six internationally recognized firms of auditors with offices in Germany (BDO Deutsche Warentreuhand AG; Deloitte & Touche; Ernst & Young; KPMG; PricewaterhouseCoopers; and Warth & Klein Grant Thornton) were contacted by the Registry. In January 2012 the Registry sent a request for quotation (attachment I) to those firms. The scope of audit (attachment II) was also communicated to those firms. Since the Tribunal has no internal audit service, the request for quotation included a provision for an interim audit every two years, that is, in 2013 and 2015, as well as a provision for the audit of the cash surplus.

3. Five firms, except Deloitte & Touche, responded to the request and the quotations received by the Registry are as follows:

Audit firm	*Total (including expenses, excluding VAT) 2013-2014* (euros)	*Total (including expenses, excluding VAT) 2015-2016*
BDO Deutsche Warentreuhand AG	11 900	11 900
Ernst & Young	10 400	10 400
KPMG	22 510	22 510
PricewaterhouseCoopers	21 000	21 000
Warth & Klein Grant Thornton	16 000	16 000

4. The Registry evaluated the above quotations, taking into account technical ability to perform the audit in accordance with generally accepted common auditing standards, the interest of the Tribunal and the best value for the money.

5. On this basis, the Registry selected all five as quotations to be regarded as having met the requirements of the Tribunal.

6. The amount of €16,400 has been included in the draft budget proposals of the Tribunal for 2013-2014 for the 2013-2014 audit, on the basis of the average of the five quotations selected in paragraph 5 above. The amount will be adjusted according to the decision to be taken by the Meeting of States Parties.

7. It may be noted that the following Auditors were previously selected to conduct the audit of the financial statements of the Tribunal:

Financial period	*Firm*	*Cost*
1996/97	Arthur Andersen	US$ 13 000
1998	Arthur Andersen	US$ 13 000
1999	Arthur Andersen	US$ 13 000
2000	Arthur Andersen	US$ 13 000
2001	PriceWaterhouseCoopers	US$ 13 100
2002	PriceWaterhouseCoopers	US$ 13 400
2003	PriceWaterhouseCoopers	€14 000
2004	Deloitte & Touche	€9 200
2005-2006	BDO Deutsche Warentreuhand	€7 000
2007-2008	BDO Deutsche Warentreuhand	€7 000
2009-2010	BDO Deutsche Warentreuhand	€10 450
2011-2012	BDO Deutsche Warentreuhand	€10 450

8. At its thirty-third session, the Tribunal examined the quotations and the evaluation carried out by the Registry and decided to transmit this information to the Meeting of States Parties for its consideration, should the Meeting decide to appoint an internationally recognized firm of auditors as Auditor for the financial periods 2013-2014 and 2015-2016.

Attachment I

Request for quotation

12 January 2012

The International Tribunal for the Law of the Sea is an independent international organization which was established by the United Nations Convention on the Law of the Sea. It began operation in October 1996 at its seat in Hamburg.

The Tribunal has a biennial budget of approximately €20 million and its financial statements are subject to audit. We kindly request you to send us a quotation by 10 February 2012 for audits of the Tribunal's financial periods 2013-2014 and 2015-2016. The quotation should include all related costs, e.g. remuneration, travel, per diem, disbursements, etc. As we contemplate interim audits of the financial records on an annual basis covering the records for the years 2013 and 2015, the quotation should also include the interim audits. In addition, the quotation should also encompass the audit of the cash surplus of the Tribunal; under the Financial Regulations and Rules of the Tribunal the cash surplus is established one year after the closing of the financial period to which it relates.

The financial statements of the Tribunal will cover the two financial periods ending 31 December 2014 and 31 December 2016. The audited financial statements and the audit reports must be presented to the Tribunal during its administrative sessions following the end of the financial period. These sessions are to be held in March 2015 and March 2017. Accordingly, the audits will need to be undertaken in late January/early February in 2015 and 2017.

The scope of the audit is defined in the enclosure accompanying the present letter.

Please contact me on telephone number 040-35607266, Mr. José Castro Espinoza at the e-mail address castro-espinoza@itlos.org or Mr. Roman Ritter at the e-mail address ritter@itlos.org should you require clarification or desire further information.

We look forward to your prompt response.

Yours sincerely,

(*Signed*) Doo-young **Kim**
Deputy Registrar

Attachment II

Scope of audit

(a) Whether the financial statements of the International Tribunal for the Law of the Sea present fairly in all material aspects the financial situation of the Tribunal;

(b) Whether the expenses incurred during these financial periods are in accordance with the appropriations approved by the Meeting of States Parties;

(c) Whether expenditures incurred have been appropriately authorized by the party designated for that purpose in the Rules or the Financial Regulations of the Tribunal;

(d) Whether staff and persons being paid by the Tribunal have been recruited or engaged in the manner provided for in the Rules or the Financial Regulations of the Tribunal;

(e) Whether goods and services have been procured in accordance with the procedure provided for in the Financial Regulations of the Tribunal;

(f) Whether goods and services which have been procured are necessary or not excessive, having regard to circumstances and the functions of the Tribunal.

Attachment III

Annex to the Financial Regulations

Additional terms of reference governing the audit of the International Tribunal for the Law of the Sea

1. The Auditor shall perform such audit of the accounts of the Tribunal, including all trust funds and special accounts, as it deems necessary in order to satisfy itself:

(a) That the financial statements are in accord with the books and records of the Tribunal;

(b) That the financial transactions reflected in the statements have been in accordance with these Regulations and the Financial Rules, the budgetary provisions and other applicable directives;

(c) That the securities and moneys on deposit and on hand have been verified by certificates received direct from the Tribunal's depositaries or by actual count;

(d) That the internal controls, including internal oversight, are adequate in the light of the extent of reliance placed thereupon.

2. The Auditor shall be the sole judge as to the acceptance in whole or in part of certifications and representations by the Registrar and may proceed to such detailed examination and verification as it chooses of all financial records, including those relating to supplies and equipment.

3. The Auditor and its staff shall have free access at all convenient times to all books, records and other documentation which are, in the opinion of the Auditor, necessary for the performance of the audit. Information which is classified as privileged and which the Registrar (or a designated senior official) agrees is required by the Auditor for the purposes of the audit and information classified as confidential shall be made available on application. The Auditor and its staff shall respect the privileged and confidential nature of any information so classified which has been made available and shall not make use of it except in direct connection with the performance of the audit. The Auditor may draw the attention of the Tribunal and the Meeting of States Parties to any denial of information classified as privileged which, in its opinion, was required for the purpose of the audit.

4. The Auditor shall have no power to disallow items in the accounts but shall draw the attention of the Registrar, for appropriate action, to any transaction for which it entertains doubt as to legality or propriety. Audit objections, to these or any other transactions, arising during the examination of the accounts shall be communicated immediately to the Registrar.

5. The Auditor (or such of its officers as it may designate) shall express and sign an opinion on the financial statements which shall read as follows:

> "We have examined the following appended financial statements, numbered ... to ..., properly identified, and relevant schedules of the International Tribunal for the Law of the Sea for the financial period ended 31 December .... Our examination included a general review of the accounting procedures and such

tests of the accounting records and other supporting evidence as we considered necessary in the circumstances."

The opinion shall also state, as appropriate, whether:

(a) The financial statements present fairly the financial position as at the end of the period and the results of their operations for the period then ended;

(b) The financial statements were prepared in accordance with the stated accounting principles;

(c) The accounting principles were applied on a basis consistent with that of the preceding financial report;

(d) Transactions were in accordance with these Regulations and legislative authority.

6. The report of the Auditor on the financial operations of the Tribunal for the financial period shall be submitted to the Meeting of States Parties through the Tribunal. It shall indicate:

(a) The type and scope of the Auditor's examination;

(b) Matters affecting the completeness and accuracy of the accounts, including, where appropriate:

(i) Information necessary to the correct interpretation of the accounts;

(ii) Any amounts which ought to have been received but which have not been brought to account;

(iii) Any amounts for which a legal or contingent obligation exists and which have not been recorded or reflected in the financial statements,

(iv) Expenditures not properly substantiated;

(v) Whether proper books of accounts have been kept; where in the presentation of statements there are deviations of a material nature from the generally accepted accounting principles applied on a consistent basis, these should be disclosed;

(c) Other matters which the Auditor considers should be brought to the notice of the Meeting of States Parties, such as:

(i) Cases of fraud or presumptive fraud;

(ii) Wasteful or improper expenditure of the Tribunal's money or other assets, notwithstanding that the accounting for the transaction may be correct;

(iii) Expenditure likely to commit the Tribunal to further outlay on a large scale;

(iv) Any defect in the general system or detailed regulations governing the control of receipts and disbursements or of supplies and equipment;

(v) Expenditure not in accordance with the intention of the Meeting of States Parties after making allowance for duly authorized transfers within the budget;

(vi) Expenditure in excess of appropriations as amended by duly authorized transfers within the budget;

(vii) Expenditure not in conformity with the authority which governs it;

(d) The accuracy or otherwise of the supplies and equipment records as determined by stock-taking and examination of the reports;

(e) If appropriate, transactions accounted for in a previous period concerning which further information has been obtained or transactions in a later period concerning which it seems desirable that the Meeting of States Parties should have early knowledge.

7. The Auditor may make such observations with respect to its findings resulting from the audit and such comments on the Registrar's financial report as it deems appropriate to the Meeting of States Parties, the Tribunal or the Registrar.

8. Whenever the scope of audit of the Auditor is restricted, or whenever it is unable to obtain sufficient evidence, it shall refer to the matter in its opinion and report, making clear in the report the reasons for its comments and the effect on the financial position and the financial transactions as recorded.

9. In no case shall the Auditor include criticism in its report without first affording the Registrar an adequate opportunity of explanation on the matter under observation.

10. The Auditor shall not be required to mention any matter referred to in the foregoing that, in its opinion, is insignificant in all respects.